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May 24, 2006

## VIA HAND DELIVERY

The Honorable Gregory M. Sleet  
 United States District Court  
 for the District of Delaware  
 J. Caleb Boggs Federal Building  
 844 King Street  
 Wilmington, DE 19801

Re: *Daniel Ferguson v. Garden Ridge Corporation, et al.*, Case No. 06-CV-00213  
(GMS) (D. Del. 2006).

Dear Judge Sleet:

Enclosed you will find a stipulated briefing schedule with respect to the above-referenced appeal (the "Appeal"). The parties respectfully request that Your Honor enter an order approving the stipulated briefing schedule at the Court's earliest convenience.

Mediation of the Appeal concluded late in the day on Friday, May 19, 2006. Pursuant to this Court's General Order dated July 23, 2004, since the Appeal did not result in a resolution, the appellant's opening brief would otherwise be due on or about June 7, 2006, and the appellees' answering brief would be due no later than June 22, 2006.

The undersigned attorney has been the primary attorney on this matter since the dispute first arose in April, 2005. The undersigned attorney conducted all discovery, drafted all briefing, argued this matter before the Bankruptcy Court and lead all settlement discussions, including the mediation, on behalf of the appellees. It is expected that the undersigned's role in the Appeal will be just as substantial.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Gregory M. Sleet

May 24, 2003

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The undersigned counsel to the appellees will be on a long-scheduled, two-week vacation beginning on June 2, 2006. Thus, absent approval of the proposed scheduling order, the appellant's opening brief will be filed while the appellees' lead counsel on this matter is on vacation and the appellees' answering brief would be due either while the undersigned is on vacation or, at the latest, within a few days of return. The appellees, with the consent of the appellant, believe that it would be a much more efficient and judicious use of resources to extend the briefing schedule as requested, rather than require an attorney other than the undersigned to "get up to speed" or, alternatively, to require the undersigned to cancel his long-planned vacation.

Finally, Your Honor, the issues raised in the Appeal are rather complicated, involving discrete bankruptcy issues such as substantive consolidation and a complex marriage of bankruptcy and Texas state law on the issue of setoff. As such, the parties believe that the stipulated scheduling order will permit a more complete and focused presentation of the issues involved for the benefit of the Court.

Based on the foregoing, the appellees' respectfully request that the Court approve the enclosed stipulated briefing schedule at the Court's earliest convenience. As always, counsel are available should Your Honor have any questions or comments concerning the foregoing.

Respectfully submitted,

Joseph M. Barry

Enclosure

cc: Clerk of the United States District Court (via hand delivery w/ enclosure)  
Pauline K. Morgan, Esquire  
William D. Sullivan, Esquire